THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.13172 of 2005

Dated:04.08.2006

Between:
Sri Garapati Gangadhara Rao.

..... PETITIONER

AND

The Joint Collector, West Godavari District, at Eluru, and another.

....RESPONDENTS

THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.13172 of 2005

ORDER:

This Writ Petition is filed seeking a certiorari to call for the records relating to the order in C.M.A.No.76 of 2000, dated 01.11.2004, on the file of the Appellate Tribunal-cum-District Judge, Eluru, West Godavari District, wherein the order passed by the first respondent in CSI/67/ECA/2000, dated 23.09.2000, was confirmed with some modification, and quash the same as arbitrary and illegal.

It seems the petitioner is an agriculturist and he is having agricultural lands to an extent of Acs.27.00 and he had stored in his own godown about 502 quintals of paddy. According to him, the paddy relates to both sarva and dalwa and he is intending to sell the same in the market. He is not a tradesman. While so, on 18.05.2000 the revenue Officials have made a surprise visit to the house-cum-godown of the petitioner at Donduluru Village and seized the stocks by conducting panchanama under Section 6-A of the Essential

Commodities Act, 1955 (for short 'the Act'), on the ground that he has violated the Andhra Pradesh Scheduled Commodities Dealers' (Licensing and Distribution) Order, 1982, read with Section 7 of the Act. However, after detailed enquiry, the 6-A proceedings were concluded and the Joint Collector, West Godavari District, through his proceedings dated 23.09.2000 ordered for confiscation of 50% of the seized stocks on the ground that the petitioner has violated Clause 3 of the Andhra Pradesh Prevention of Hoardings of Food Grains Order, 1973. Aggrieved by the same, the petitioner carried the matter in an appeal under Section 6-C of the Act before the learned District Judge, West Godavari District, Eluru. The learned District Judge, however, reduced the confiscation to 25% of the seized stocks, and dismissed the appeal. Aggrieved by the same, the present Writ Petition is filed.

Absolutely, there is no evidence on record to show that the petitioner is doing business in paddy or he is a trader. On the other hand, the petitioner asserted before both the authorities that he is in possession and enjoyment of Acs.27.00 of agricultural land and the stocks seized is the yield that he has obtained for sarva and dalwa. Therefore, he has not hoarded, nor he has contravened any of the provisions of the Act. Though the petitioner filed some documents to show that he is possession of Acs.27.00 of land, no enquiry was conducted with regard to his status as to the holding of Acs.27.00 of land and the yield etc. Therefore, it cannot be said that the petitioner, being a ryot, has violated any of the provisions of law or Clause 3 of the Andhra Pradesh Prevention of Hoardings of Food Grains Order, 1973, or Clauses 3 and 4 of the Andhra Pradesh Scheduled Commodities Dealers' (Licensing and Distribution) Order, 1982. The order passed by the Joint Collector is only imaginary and not supported by any concrete evidence. The learned District Judge, though did not appreciate the facts and law properly, simply as if some charity is being done, reduced the confiscation from 50% to 25%.

Therefore, I am of the opinion that the order passed by the Joint Collector as confirmed by the District Judge are not supported by any law and the same are liable to be set aside.

In the result, the Writ Petition is allowed, and the orders of the Joint Collector as well as the learned District Judge are set aside. No costs.

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(C.V.RAMULU, J)

Dated:04.08.2006.
vs